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Security Council

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Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire

Note verbale dated 24 May 2006 from the Permanent Mission of Austria to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Austria to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire and has the honour to provide the following information (see annex).

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Annex to the note verbale dated 24 May 2006 from the Permanent Mission of Austria to the United Nations addressed to the Chairman of the Committee

1. Austria and the other member States of the European Union have jointly implemented the restrictive measures against Côte d'Ivoire imposed by Security Council resolutions 1572 (2004) and 1643 (2005) by taking the following common measures:[1]

- **Council Common Position 2006/30/CFSP of 23 January 2006**[2]

  The Common Position sets out the EU's commitment to implementation of all the measures contained in Security Council resolutions 1572 (2004) and 1643 (2005), and provides the basis for some of the specific implementing measures adopted by the Council of the EU. Common Position 2006/30/CFSP replaces Common Position 2004/852/CFSP[3] which imposed the measures contained in resolution 1572 (2004) and expired on 15 December 2005. Specifically, it renews the measures contained in the Common Position 2004/852/CFSP and additionally provides for the prohibition on the import of rough diamonds from Côte d'Ivoire imposed by resolution 1643 (2005).

- **Council Decision 2006/172/CFSP of 27 February 2006**[4]

  The Council Decision implements Common Position 2004/852/CFSP and establishes, for the purposes of the visa ban, the list of three persons designated by the Côte d'Ivoire Sanctions Committee on 7 February 2006.

- **Council Regulation (EC) No. 174/2005 of 31 January 2005,**[5] **as amended by Commission Regulation (EC) No. 1209/2005**[6]

  The Council Regulation implements in the European Community the restrictions on the supply of assistance related to military activities to Côte d'Ivoire as imposed by resolution 1572 (2004). The Commission Regulation amends the list of competent authorities in member States to which the Council Regulation assigns specific functions in the implementation of the Council Regulation.

- **Council Regulation (EC) No. 560/2005 of 12 April 2005,**[7] **as amended by Commission Regulation (EC) No. 250/2006**[8]

  The Council Regulation implements in the European Community the freezing of funds and economic resources of persons and entities designated by the United Nations sanctions Committee and the prohibition of making funds or economic resources available to such persons or entities, with certain

[1] All common measures are published in the Official Journal of the European Union, which can be consulted at the following web pages: http://europa.eu.int/eur-lex/lex/JOIndex.do?ihmlang=en (published issues) and http://europa.eu.int/eur-lex/lex/RECH_menu.do?ihmlang=en (search form).

[2] Official Journal of the European Union L 19, 24.1.2006, p. 36.

[3] Official Journal of the European Union L 368, 15.12.2004, p. 50.

[4] Official Journal of the European Union L 61, 2.3.2006, p. 21.

[5] Official Journal of the European Union L 29, 2.2.2005, p. 5.

[6] Official Journal of the European Union L 197, 28.7.2005, p. 21.

[7] Official Journal of the European Union L 95, 14.4.2005, p. 1.

[8] Official Journal of the European Union L 42, 14.2.2006, p. 24.

exemptions as provided for in resolution 1572 (2004). The Commission Regulation amends the Council Regulation by including the list of three persons designated by the Côte d'Ivoire Sanctions Committee on 7 February 2006 in annex I to the Council Regulation.

- **Council Regulation (EC) No. 2368/2002 of 20 December 2002**[9]

The prohibition on the import of all rough diamonds from Côte d'Ivoire, as imposed by resolution 1643 (2005), is being enforced in the European Community by virtue of Council Regulation (EC) No. 2368/2002 of 20 December 2002, which implements the Kimberley Process Certification Scheme (KPCS) in the European Community. Given that no Kimberley Process certificates are being issued by Côte d'Ivoire and given that the Chair of the Kimberley Process has instructed Participants in the KPCS not to accept any shipments of rough diamonds with certificates issued by the authorities of Côte d'Ivoire, no rough diamonds from Côte d'Ivoire can currently be imported into the European Community. Moreover, in implementation of the resolution adopted by KPCS Participants meeting in plenary in Moscow in November 2005, the European Commission (which represents the European Community in the KPCS) has requested the authorities of member States to report any imports of rough diamonds suspected of involving rough diamonds originating in Côte d'Ivoire, and any cases of trade of rough diamonds within the EC that are suspected of involving rough diamonds originating in Côte d'Ivoire. To date, there have been no confirmed cases in the EU of import or trade involving rough diamonds originating in Côte d'Ivoire since the entry into force of Regulation 2368/2002.

- **Council Regulation (EC) No. 539/2001 of 15 March 2001**[10]

This Regulation requires nationals of Côte d'Ivoire to be in possession of a visa when entering the European Union.

The above-mentioned Council Regulations are binding in their entirety and directly applicable to all member States of the European Union.[11]

2. In addition, Austria has the following national legislation requiring an export authorization for the sale, supply, transfer or export of arms and related materiel[12] to third countries and an authorization for the provision of brokering services and other services related to military activities, which together with Common Position 2006/30/CFSP provides the basis for enforcement of the arms embargo against Côte d'Ivoire and the ban on related brokering services:

- **Austrian War Materials Act (WMA), Foreign Trade Act (FTA) and the Foreign Trade Act Regulation (FTAR)**

According to the Austrian War Materials Act (WMA, Federal Law Gazette I, No. 57/2001, as amended), the Foreign Trade Act (FTA, Federal Law Gazette, No. 50/2005, as amended) and the Foreign Trade Act Regulation (FTAR, Federal Law Gazette II, No. 121/2006, as amended) no authorization may be

[9] Official Journal of the European Union L 358, 31.12.2002, p. 28.
[10] Official Journal of the European Union L 81, 21.3.2001, p. 1.
[11] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom.
[12] This legislation should apply to all goods included in the Common Military List of the European Union, Official Journal of the European Union C 66, 17.3.2006, p. 1.

granted to export war materials, weapons, etc. to countries that are subject to a United Nations or EU arms embargo.

3. Regulations (EC) No. 174/2005, No. 560/2005 and No. 2368/2002 require member States to determine the penalties applicable to infringements of their provisions. The penalties determined by Austria are set out in the following legislation:

- **Austrian War Materials Act (WMA) and Foreign Trade Act (FTA)**

  Non-compliance with the WMA or the FTA is, in principle, an administrative offence but may, under certain circumstances, also be regarded as a criminal offence to be punished with up to five years of imprisonment or payment of a fine of up to 360 daily rates.

- **Freezing of Funds — Austrian Exchange Control Act**

  The Austrian Exchange Control Act (Federal Law Gazette I, No. 123/2003) stipulates that non-compliance with regulations of the European Union or relevant Austrian Federal Government regulations concerning the freezing of funds is a criminal offence to be punished with up to one year of imprisonment.

- **Import of diamonds — Austrian Foreign Trade Act (FTA)**

  According to provisions of the Foreign Trade Act (Federal Law Gazette I, No. 50/2005) non-compliance with an international obligation, a regulation of the European Union or an Austrian Federal regulation can be punished with up to two years of imprisonment. These provisions also apply to the import of all rough diamonds from Côte d'Ivoire.

- **Assistance — Austrian Penal Code**

  According to the Austrian Penal Code (Federal Law Gazette I, No. 136/2004) the illegal military assistance or support to a party to an armed conflict where the Republic of Austria is not involved is to be regarded as a criminal offence and is to be punished with up to five years of imprisonment.